

ENTERED

July 06, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JUAN BALDERAS,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

§
§
§
§
§
§
§

CIVIL ACTION NO. 4:20-CV-4262

REVISED SCHEDULING ORDER

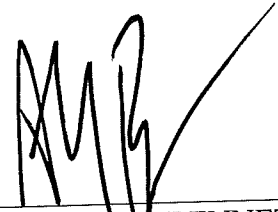
Pursuant to an agreed submission by the parties (Docket Entry No. 26), the Court enters the following revised scheduling order:

1. Balderas filed his initial Petition for Writ of Habeas Corpus on December 15, 2020.
2. Balderas shall file an Amended Petition for Writ of Habeas Corpus on October 18, 2021, unless counsel is impeded by the ongoing COVID19 pandemic. In the event that counsel believes it has been impeded by the COVID19 pandemic and is unable to comply with the filing deadline, it will inform Respondent's counsel 30 days before the deadline, and the parties shall promptly confer regarding a proposed revised scheduling order. If the parties agree on a proposed revised schedule order, they shall submit a proposed revised scheduling order on October 5, 2021. In the event the parties cannot agree, Petitioner may file an appropriate motion for an extension by October 5, 2021.
3. The amendment discussed in this Paragraph 2 constitutes the one amendment, "as a matter of course," under Federal Rule of Civil Procedure 15(a). By agreeing to this amendment, Respondent does not waive any procedural arguments or defenses that may arise in connection with claims raised in the amendment, or the amendment itself.
4. Respondent will submit a copy of the state court record prior to or at the time Respondent's Answer is filed.
5. Respondent will file an Answer to the Amended Petition within 90 days of the filing of the Amended Petition.

6. Balderas will file a Reply to Respondent's Answer within 60 days of the filing of the Answer.
7. Balderas's Petition for Writ of Habeas Corpus contains claims that were not exhausted in state court. Balderas reserves the right to file a motion, pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005), to stay and abey these proceedings to exhaust any unexhausted claims in state court. Balderas will file any motion pursuant to *Rhines* at the same time as his Amended Petition, if not sooner.

The Clerk will provide copies of this Order to the parties.

SIGNED on JUL 06 2021 at Houston, Texas.



ALFRED H. BENNETT
UNITED STATES DISTRICT JUDGE